

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Advanced Television Systems )  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

MM Docket No. 87-268

To: The Commission

**ORIGINAL**

**REPLY TO OPPOSITION**

KM Communications, Inc. ("KM"), by its counsel, and pursuant to Section 1.429(g) of the Commission's Rules, 47 C.F.R. § 1.429(g), respectfully submits this Reply to the Comment on and Opposition to Petitions for Reconsideration of the Fifth and Sixth Reports and Orders<sup>1</sup> filed by the Association for Maximum Service Television, Inc. and the Broadcasters Caucus ("MSTV") on July 18, 1997 in the above-captioned digital television ("DTV") proceeding (the "MSTV Opposition"). In reply to the MSTV Opposition, KM submits the following:

1. KM, a woman-owned and minority-owned corporation, is the licensee of four Low Power Television ("LPTV") stations, is the permittee or its principal has interests in several new full power commercial television stations, and has additional applications pending for new full power commercial television stations, including such applications for which universal settlement agreements are pending before the Commission. KM has participated in this proceeding by

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<sup>1</sup> Advanced Television Systems And Their Impact Upon The Existing Television Broadcast Service, MM Docket No. 87-268, Fifth Report and Order, FCC 97-116 (released April 21, 1997) ("Fifth R&O"), and Sixth Report and Order, FCC 97-115 (released April 21, 1997) ("Sixth R&O"), respectively.

filing comments<sup>2</sup> in response to the Sixth Further Notice of Proposed Rulemaking,<sup>3</sup> and by filing a petition for reconsideration<sup>4</sup> of certain actions in the Fifth R&O and Sixth R&O.

2. Although MSTV did not direct its comments and opposition expressly toward the KM Petition, and indeed MSTV supports certain arguments made in the KM Petition,<sup>5</sup> certain arguments in the MSTV Opposition oppose positions taken by KM regarding the treatment of LPTV stations, and are addressed herein.

3. KM and other parties argued in comments on the Sixth FNPRM that the Commission's DTV channel allotment process should attempt to minimize the effect on LPTV stations, and on reconsideration that the DTV allotment plan adopted by the Commission would displace LPTV stations on a wholesale basis, unnecessarily. See KM Petition at 7-8. MSTV misses the point by arguing that, as a secondary service, LPTV stations should have known that displacement was possible, or should even have anticipated that LPTV stations would be displaced. See MSTV Opposition at 20. KM has not asserted that LPTV stations are entitled to protection against full service television stations, like a primary service, but rather that the

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<sup>2</sup> See Comments of KM Communications, Inc., filed November 22, 1996.

<sup>3</sup> Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, MM Docket No. 87-268, Sixth Further Notice of Proposed Rulemaking, 11 FCC Rcd 10968 (1996) ("Sixth FNPRM").

<sup>4</sup> See Petition for Reconsideration, filed by KM Communications, Inc. on June 13, 1997 (the "KM Petition").

<sup>5</sup> MSTV (and other parties) support using Channels 60 to 69 to alleviate the shortage of spectrum, particularly in urban markets, and at least to some extent to better accommodate LPTV stations that would otherwise be forced off the air, see MSTV Opposition at 31 (restricted use of Channels 60 to 69 results in "fewer opportunities to accommodate displaced LPTVs"), see also Opposition to Petitions for Reconsideration of the Fifth Report and Order and of the Sixth Report and Order filed by Viacom, Inc. on July 18, 1997 (the "Viacom Opposition"), a position advocated by KM. See KM Petition at 9-10 and 12-13.

FCC should take a few simple steps that are necessary and appropriate to minimize the wholesale displacement of LPTV stations, including steps recognized and supported by MSTV. For example, MSTV recognizes, as does KM, that the displacement of LPTV stations is due in part to the "limited amount of available spectrum," id. at 19, which could be alleviated largely by the continued use of Channels 60 to 69 for television broadcast services, including LPTV, during the DTV transition period. Id. at 31.

4. In short, the secondary status of LPTV stations should not be an excuse for the Commission to summarily decimate an LPTV industry that is providing a valuable service to the public, when the continued use of Channels 60 to 69 and the consideration of current LPTV stations in the DTV allotment process would minimize that impact. The few displacement relief measures and relaxed technical standards for LPTV stations provide no relief for KM's LPTV stations that will be forced off the air, as well as no relief for many other LPTV stations.

5. Apart from the LPTV issues, KM supports several of the arguments raised in the MSTV Opposition and Viacom Opposition. KM agrees with MSTV and supports the Commission's full replication principles, id. at 12-13, as reflected in the KM Petition, where KM requests that the Commission correct the engineering database and DTV table of allotments to provide full replication for the construction permit (FCC File No. BPCT-941021KI) for a new full service analog National Television System Committee ("NTSC") television station, KAUC(TV), NTSC Channel 58 at Sierra Vista, Arizona.<sup>6</sup> As demonstrated in the KM Petition,

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<sup>6</sup> Since filing the KM Petition, the construction permit for KAUC(TV) has been assigned from KM to Sierra Television LLC ("Sierra"), in a pro forma assignment authorized by the Commission (FCC File No. BAPCT-970528IA). Mrs. Myoung Hwa Bae, the president, 100% shareholder and a director of KM is also the president, manager and holds 100% of the membership interests in Sierra.

the DTV Channel 44 allotment to be paired with KAUC(TV)'s NTSC channel did not come close to replicating the Grade B coverage for the station, due to a Commission error in updating its database and on granting the construction permit on November 22, 1996, well prior to the April 3, 1997 cut-off for changes to the database. See KM Petition at 3-5. No party has served KM with any opposition to KM's request that the DTV allotment for KAUC(TV) be corrected, and therefore KM requests that the Commission promptly correct the DTV allotment table to provide full replication for KAUC(TV).

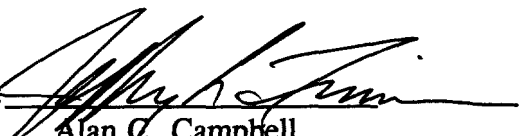
6. KM also agrees with Viacom that long-pending modification applications should be processed by the Commission promptly, particularly for modification applications pending prior to April 3, 1997. See Viacom Opposition at 14-16. KM has had an application (FCC File No. BMPCT-960624KF) pending for over a year for its authorized new television station KWKB(TV), Iowa City, Iowa, for the minor modification of the construction permit (FCC File No. BPCT-941215KG) to specify a new site for the station. The processing of the minor modification application is delaying the introduction of a new television service to Iowa City, and the delays (first in processing the original application and settlement, and then in the processing of the minor modification of the permit) have resulted in the loss of transmitter sites, which in turn engenders further delays.

7. KM notes that no party has served KM with any opposition to other matters raised in the KM Petition, including: (i) the protection of the proposed allotment of NTSC Channel 21 in substitution for NTSC Channel 14 at Boise, Idaho, as proposed by KM in a petition for rulemaking filed prior to the July 25, 1996 freeze on such petitions, to resolve certain potential land mobile radio interference concerns and to facilitate a settlement that has been pending

before the Commission since December 1995, see KM Petition at 5-6; (ii) relief for displaced LPTV stations, including compensation, use of Channels 60 to 69 without displacement throughout the DTV transition period, and a preference for any cancelled DTV channel licenses, id. at 10-13; and (iii) clarification of the filing dates for LPTV displacement applications. Id. at 13-15. KM requests that the Commission grant reconsideration on those issues.

WHEREFORE, the above premises being considered, KM respectfully requests that the Commission reconsider certain actions taken in the Fifth Report and Sixth Report and grant KM the relief requested in the KM Petition and herein.

Respectfully submitted,  
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July 31, 1997

**CERTIFICATE OF SERVICE**

I, Laura Ann Campbell, do hereby certify that on this 31st day of July, 1997, copies of the foregoing "Reply to Opposition" by U.S. first-class mail, postage prepaid, upon the following:

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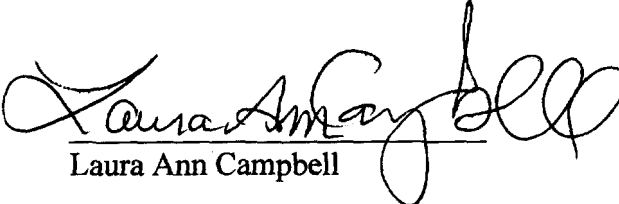
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